

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

<u>In re:</u>	:	Chapter 11
<u>ORION HEALTHCORP, INC¹.</u>	:	Case No. 8-18-71748 (AST)
<u>Debtors.</u>	:	(Jointly Administered)
<u>HOWARD M. EHRENBERG IN HIS CAPACITY AS LIQUIDATING TRUSTEE OF ORION HEALTHCORP, INC., ET AL.,</u>	:	Adv. Pro. No. 8-20-08048 (AST)
<u>Plaintiff,</u>	:	
<u>v.</u>	:	
<u>ELIZABETH KELLY; FIDELITY NATIONAL TITLE INSURANCE COMPANY,</u>	:	
<u>Defendant(s).</u>	:	

STIPULATION RE STATUS OF ADVERSARY

Plaintiff, Howard Ehrenberg, in his capacity as Liquidating Trustee of Orion Healthcare, Inc. (the “Plaintiff”) and Defendant Elizabeth Kelly (“Kelly”, and collectively the “Parties”), by and through their undersigned counsel of record, forward the attached stipulation (the “Stipulation”) to advise the Court of the status of this adversary.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Orion Healthcorp, Inc. (7246); Constellation Healthcare Technologies, Inc. (0135); NEMS Acquisition, LLC (7378); Northeast Medical Solutions, LLC (2703); NEMS West Virginia, LLC (unknown); Physicians Practice Plus Holdings, LLC (6100); Physicians Practice Plus, LLC (4122); Medical Billing Services, Inc. (2971); Rand Medical Billing, Inc. (7887); RMI Physician Services Corporation (7239); Western Skies Practice Management, Inc. (1904); Integrated Physician Solutions, Inc. (0543); NYNM Acquisition, LLC (unknown) Northstar FHA, LLC (unknown); Northstar First Health, LLC (unknown); Vachette Business Services, Ltd. (4672); Phoenix Health, LLC (0856); MDRX Medical Billing, LLC (5410); VEGA Medical Professionals, LLC (1055); Allegiance Consulting Associates, LLC (7291); Allegiance Billing & Consulting, LLC (7141); New York Network Management, LLC (7168). The corporate headquarters and the mailing address for the Debtors listed above is 1715 Route 35 North, Suite 303, Middletown, NJ 07748.

RECITALS

1. On March 13, 2020, Plaintiff filed a complaint [Dkt. No. 1] against Defendants. The Complaint involves allegations of breach of fiduciary duty, Chapter 5 avoidance claims, subordination and objection to filed claims.

2. The Summons [Dkt. No. 2] was issued by the Clerk's Office on March 13, 2020.

3. On June 30, 2020, Defendants filed *Defendant's Elizabeth Kelly's Motion to Dismiss* [Dkt. No. 12]. Thereafter, the Parties engaged in informal discussions regarding the various issues.

4. On September 8, 2020, Plaintiff filed a *Notice of Dismissal* of Defendant Fidelity National Title Insurance Company [Dkt. No. 18].

5. Starting in March 2021, the Trustee and numerous parties, which included the participation of various insurers, attended court ordered mediations in an attempt to resolve the Trustee's claims in adversaries 20-08046, *Howard M. Ehrenberg, in his capacity as Liquidating Trustee of Orion HealthCorp, Inc. et al v. John Johnston, et al.* (Adv. Proc. No. 20-08046; Main Case No. 18-71748); *Howard M. Ehrenberg, in his capacity as Liquidating Trustee of Orion HealthCorp, Inc. et al v. Richard Ian Griffiths, et al.* (Adv. Proc. No. 20-08048; Main Case No. 18-71748); *Howard M. Ehrenberg, in his capacity as Liquidating Trustee of Orion HealthCorp, Inc. et al v. Joel Plasco, et al.* (Adv. Proc. No. 18-8053; Main Case No. 18-71748); and *Howard M. Ehrenberg, in his capacity as Liquidating Trustee of Orion HealthCorp, Inc. et al v. Elizabeth Kelly, et al.* (Adv. Proc. No. 20-08048; Main Case No. 18-71748).

6. A mediation was held on multiple occasions before Judge Rosen, Ret., and the various parties and carriers.

7. On October 27, 2021, Plaintiff filed a *Notice of Presentment of Motion Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure and Section 105 of the Bankruptcy Code for Entry of an Order Approving Settlement Agreement* [Dkt. No. 20].

8. On December 16, 2021, the Court entered an *Order Authorizing The Trustee To Enter Into And Approving The Agreements By And Between The Trustee And Various Defendants* [Dkt. No. 22]. Various agreements were reached with respect to the directors and officers litigation and insurance carriers. With respect to the *Kelly adversary*, this matter at Adv. Pro. No. 8-20-08048, the agreements did not resolve any of the claims asserted against Kelly, but addressed Kelly's rights as against one of her insurers and the enforcement of judgment on certain claims in the *Kelly adversary*.

9. Following the entering of the Order [Dkt. No. 22], the Plaintiff and Kelly exchanged settlement position letters as to the claims and defenses of remaining claims. On March 16, 2022, the Parties and carriers met and conferred regarding the allegation(s) and defenses. Following the exchange, the Defendants' exchanged a position letter date April 1, 2022, to which Plaintiff is preparing a response. The Parties will submit a stipulation and order to attend mediation following the upcoming exchange or will enter into a Case Management and Scheduling Order with respect to briefing the filed §12(b)(6) motion.

10. The stipulation is made in good faith and not with the intent to hinder or delay this adversary proceeding.

NOW AND THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

1. Within 90 days of the filing of the Stipulation, the Parties will file a proposed Stipulation and Order to Attend Mediation or Case Management and Scheduling Order with respect to briefing the filed §12(b)(6) motion;

2. Each person who executes this Stipulation represents that he or she is duly authorized to execute this Stipulation on behalf of the respective Parties hereto and that each such party has full knowledge and has consented to this Stipulation

3. This Stipulation may be executed in one or more counterparts, any of which may be transmitted by facsimile or electronic transmission, and each of which shall be deemed an original, but all of which together shall constitute one and the same document.

Dated: April 29, 2022

PACHULSKI STANG ZIEHL & JONES LLP
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Ehrenberg in his capacity as Liquidating
Trustee of Orion Healthcorp, Inc., et al

By: /s/ Jeffrey P. Nolan

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Dated: May 2, 2022

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SO ORDERED: